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**COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re R.E. et al., Persons Coming Under the
Juvenile Court Law.

KERN COUNTY DEPARTMENT OF
HUMAN SERVICES,

Plaintiff and Respondent,

v.

JENNIFER E.,

Defendant and Appellant.

F065277

(Super. Ct. Nos. JD127581, JD127582,
JD127583, JD127584)

OPINION

THE COURT*

APPEAL from orders of the Superior Court of Kern County. Jon E. Stuebbe,
Judge.

Jamie A. Moran, under appointment by the Court of Appeal, for Defendants and
Appellants.

Theresa A. Goldner, County Counsel, and Kelli R. Falk, Deputy County Counsel,
for Plaintiff and Respondent.

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* Before Cornell, Acting P.J., Gomes, J., and Poochigian, J.

INTRODUCTION

Jennifer E. (mother) appeals from the juvenile court's dispositional orders denying her reunification services. We reject mother's contention and affirm the juvenile court's orders.

FACTS AND PROCEEDINGS

On October 3, 2011, the Kern County Department of Human Services (department), filed a petition alleging that mother's four children R.E. (12 years old), A.H. (11 years old), J.E. (3 years old), and I.C. (6 months old) came within the provisions of Welfare and Institutions Code section 300.¹

The petition alleged the children suffered serious physical harm because mother failed to supervise or protect them from the conduct of their maternal grandmother (grandmother) with whom they were left. The children had no food or electricity in their home. Water was leaking through the bathroom ceiling, there was mold under the kitchen sink, and I.C. was diagnosed with impetigo, which was exacerbated by the lack of electricity. The grandmother was under the influence of methamphetamine. The petition further alleged that mother had a history of substance abuse for the prior 11 years, regularly drank alcohol to the point of intoxication, and tested positive for drugs after giving birth in 2002 to a half-sibling, V.S., Jr., and again after giving birth to A.H. in 2000. Mother's parental rights to V.S., Jr., were terminated in 2003 and he was adopted. Mother's parental rights to another child, S.R., were also terminated in 2004 and she was later adopted.

The department prepared a report for the November 15, 2011, jurisdictional hearing. On September 28, 2011, a social worker went to mother's home after receiving

¹ Unless otherwise indicated, all statutory references are to the Welfare and Institutions Code.

a referral of general neglect. The reporting party stated that mother and her four children were living with the grandmother in substandard housing without electricity, water, or food. The grandmother told the social worker that mother was away, had come back, and left again. The home was clean, but extremely hot inside. The grandmother admitted mother was using drugs. Mother arrived at the home after grandmother called her and told her a social worker had come to the home.

When mother arrived, she told the social worker that she was trying to fix things but could not explain how. When the four children were taken into custody, one child had a skin condition with patches over his skin and face. The older children ate food at school but not at home. R.E. reported that mother always drinks. The next day the social worker went to the home. The grandmother explained that mother had taken off. The maternal grandfather arrived and told the social worker that he cooked for the children and cooked off the gas stove without electricity.

According to the grandmother, mother owed about \$1,900 for the utility bill. The grandmother was attending substance abuse classes. The grandmother stated that mother is a very bad alcoholic and cusses at the children to get away from her when she is drinking. Mother was aware that I.C. had a skin condition and that it was serious. Mother had an appointment to take I.C. to the doctor in a week but did not consider taking him to the emergency room and could not remember where to take I.C. for the doctor's appointment.

Mother had a felony robbery conviction in Arizona in 2000. In October 2011, mother had pending felony charges that she possessed a stolen vehicle, conspired to commit a felony crime, and possessed cocaine base for sale. Mother was incarcerated on these charges.

After mother gave birth to V.S., Jr., in 2002 and tested positive for methamphetamine, V.S., Jr., was detained. Because mother had been convicted of a

violent felony, she did not receive reunification services. Mother's parental rights to V.S., Jr., were terminated and he was adopted in 2003. In late 2003, a new detention was held on behalf of S.R. In 2004, mother's parental rights to S.R. were terminated and the child was subsequently adopted.

On November 15, 2011, mother executed a waiver of rights, waiving her right to a jurisdictional hearing, to the testimony of witnesses, to cross-examine witnesses, to testify on her own behalf, to compel the testimony of witnesses, and her privilege against self-incrimination. Mother submitted and did not contest the allegations of the petition based on the social worker's report, acknowledging that she understood that her submission would lead to a true finding by the juvenile court of the allegations in the petition and the possibility that she may not receive reunification services.

The department's report for the dispositional hearing noted that the social worker met with mother on November 15, 2011. Mother indicated she faced a potential sentence of 32 months in prison for possession of a stolen vehicle. Mother said her attorney would fight for a sentence half that length and she believed she would serve only a third of that time. The grandmother was trying to bail mother out of prison. Mother was told the department's recommendation was that she be denied services based on her prior denial of services for her two other children. Mother told the social worker she does not currently use drugs and had not done so since the birth of J.E. and I.C.

The department noted that mother had recently been sentenced to state prison for two years. The department recommended that mother not receive reunification services because her parental rights had been terminated to two other children and she had a violent felony conviction for robbery. At the dispositional hearing on January 27, 2012, the department's counsel submitted the matter on the social workers' reports and recommendations. Mother's counsel lodged an objection, but stated mother had no additional evidence to offer.

The juvenile court ordered the removal of the children from mother's custody and found that the parents had made no progress toward alleviating or mitigating the causes for the dependency. The court denied reunification services to mother, finding there was clear and convincing evidence that the children came within the provisions of section 361.5, subdivision (b)(11) because mother's parental rights had been permanently severed as to two other children. The court further denied reunification services to mother, finding by clear and convincing evidence that the children came within the provisions of section 361.5, subdivision (b)(12) because mother had been convicted of a violent felony.

DISCUSSION

Mother contends the juvenile court erred in denying her reunification services. We agree with the department that mother's general objection to the department's case during the dispositional hearing was insufficient to preserve the issue she now raises on appeal because she failed to make a specific objection to the department's evidence. (*In re E.A.* (2012) 209 Cal.App.4th 787, 790-791.) Even if we were to find that mother's objection was adequate, she would not prevail on the merits of her claim.

Generally, parents are entitled to reunification services because of the statutory preference for maintaining family relationships if at all possible. (§ 361.5, subd. (a); *In re Ethan N.* (2004) 122 Cal.App.4th 55, 63 (*Ethan N.*).) Appeals from the so-called reunification bypass provisions are set forth in section 361.5. (*Ethan N.*, *supra*, 122 Cal.App.4th at pp. 63-64.)

Once the juvenile court finds that one or more of the bypass provisions applies, the court is prohibited from ordering reunification services unless, pursuant to section 361.5, subdivision (c), the court finds by clear and convincing evidence that reunification is in the best interest of the child or children. (*Ethan N.*, *supra*, 122 Cal.App.4th at p. 64.) Where a bypass provision applies, the general rule favoring reunification is replaced by a

legislative assumption that offering reunification services would be an unwise use of governmental resources. (*Id.* at p. 65.) Appeals by parents subject to the bypass provisions are reviewed for substantial evidence. (*Ibid.*; *Curtis F. v. Superior Court* (2000) 80 Cal.App.4th 470, 474.) We do not reweigh the evidence or consider the credibility of evidence. (*L.Z. v. Superior Court* (2010) 188 Cal.App.4th 1285, 1292.)

Mother argues that although she lost two children in prior dependency proceedings, she was entitled to services because she continued to have periodic contact with social workers, remained generally cooperative, and had unfounded findings when it came to past allegations of neglect. Although mother concedes she has had “some difficulty” with the system, mother maintains “she had largely remained on good terms with social workers for nearly a decade.”

The legal standard that governs our review of the juvenile court’s rulings does not rest on whether mother remained on good terms with social workers. The fact that mother continued to be referred to social workers for over a decade is, contrary to her argument on appeal, evidence that mother was unable to properly and consistently provide a proper environment for her children.

Mother came within two statutory bypass provisions which prevented her from receiving reunification services unless the juvenile court found by clear and convincing evidence that it would be in her children’s best interests for mother to receive such services. Instead, the court found by clear and convincing evidence that mother lost her parental rights to two other children in 2003 and 2004, respectively, and had also committed a prior violent felony.

Mother was incarcerated in state prison during most of the instant proceedings. She failed to rebut any of the evidence presented in the social workers’ reports indicating that both statutory bypass provisions applied to her case. Mother did not specifically object to any of the evidence presented by the department. There was substantial,

unrefuted evidence that mother came within the bypass provisions of section 361.5, subdivision (b)(11) and (b)(12). Mother failed to meet her burden of proving by clear and convincing evidence that providing reunification services was in the children's best interests. (§ 361.5, subd. (c); Cal. Rules of Court, rule 5.695(h)(11).)

DISPOSITION

The orders of the juvenile court are affirmed.